

## REMARKS

### Status of the Claims

Claims 1 – 32 are pending. No claims have been withdrawn from consideration.

### Amendments to the Specification

The amendment to the paragraph on page 9, lines 15 – 35, corresponding to paragraph [0041] of the published application (US 2007/0294955 A1), finds support in original claim 8, as well as on page 5, lines 17 – 22 of the specification.

The amendment to the paragraph on page 10, lines 12 – 27, corresponding to paragraph [0044] of the published application (US 2007/0294955 A1), corrects a typographical error.

The amendment to the paragraph on page 6, lines 1 – 7, corresponding to paragraph [0018] of the published application (US 2007/0294955 A1), clarifies the paragraph by ensuring that each sentence of the paragraph is read in the context of the paragraph as a whole.

### Amendments to the Drawings

The attached Replacement Sheets include changes to Fig. 2, 3a, 3b, 4a, and 4b, as well as new Fig. 4c.

Fig. 2 is amended to add the legend "Prior Art."

Fig. 3 is relabeled as Figs. 3a and 3b.

Fig. 4 is relabeled as Figs. 4a and 4b.

Fig. 4c is added to show a "kink". It is submitted the depiction of the "kink 25" is supported at paragraph [0016] of the published version of the present application US 2007/0294955 A1 describing the kink as running in the direction of the height of the tower. The Dictionary definition of "kink" includes

"1.b. a bend in something (as a line) otherwise straight: Indentation, projection..."

Webster's Third New International Dictionary of the English Language,

unabridged (1993)(ATTACHMENT 1). In accordance with MPEP 609.05(c) it is not necessary to submit this dictionary excerpt relied upon by Applicant in an IDS for it to be considered by the Examiner.

Thus, the depiction of a kink in Fig. 4c is a schematic representation of a kink as an indentation.

#### Claim Amendments

Independent claim 1 is amended to include the features of claim 8 (essentially flat without the kink) or claim 21(essentially flat with the kink).

Independent claim 15 is amended to include the features of claim 9.

New claim 26 repeats the trapezoidal embodiment of claim 5.

New independent claim 27 recites claim 1 (as it was prior to the present amendment) plus the features of claim 9.

Claims 28 and 29 recite features of claim 10.

Claims 30 and 31 recite the additional first flange and/or wherein the additional second flange form an L-shape with the first flange or second flange, respectively, as supported by Fig. 5a and the paragraph at the bottom of page 5.

Claim 32 recites the kink is an indentation or projection as supported by the above listed definition of kink.

#### Objections to the Specification

The Office action objects to the specification, asserting page 10, line 26 refers to Figure 8, which does not exist. The amendments to the specification address this objection.

#### Objections to the Drawings

The Office action makes three objections to the drawings.

The Office action objects to Fig. 2, because it is not designated by a legend such as "Prior Art."

The Office action objects to Figures 3 and 4, asserting Fig. 3 should be Figs. 3A and 3B and Fig. 4 should be Figs. 4A and 4B.

The Office action objects to the Figures, citing 37 C.F.R. §1.83(a), and asserting a kink, as claimed in claim 21, is not shown.

The amendments to the drawings address these rejections.

#### Claim Rejections

Applicants respectfully request reconsideration of the claim rejections made in the Office action.

- I. The Office action rejects claims 1, 2, 4 – 7, 11, 14 – 16, 19, 20, and 22, citing 35 U.S.C §102(e) and US 2006/0272244 by Jensen (hereinafter, “Jensen”).

Independent claim 1 is amended to include the features of claims 8 or 21 (thus, flat but optionally with the kink). It is submitted this distinguishes over the reference. Selecting flat surfaces or flat with a kink surfaces avoids the circular curved surfaces of Jensen.

Independent claim 15 is amended and new independent claim 27 added to include the features of claim 9. On page 9, the Office action acknowledges Jensen does not teach the features of claim 9.

Thus, this rejection should be withdrawn.

- II. The Office action rejects claims 1, 2, 4 – 6, 8, 11, 13, 15, 16, 19, and 22, citing 35 U.S.C. §102(b) and US 3,374,593 to Rensch (hereinafter, “Rensch”).

Independent claim 1 is amended to include the features of claim 8 or claim 21. It is submitted this distinguishes over the reference.

Fig. 9 which is the only 3D construction shown by Rensch is not suitable for a wind turbine. At best it would provide a lattice tower.

Independent claim 15 is amended and new independent claim 27 added to include the features of claim 9.

Thus, this rejection should be withdrawn.

- III. The Office action rejects claims 1, 2, 4 – 8, 11, 14 – 16, 19, 20, 24, and 25, citing 35 U.S.C. §102(e) and US 2005/0166521 by Silber (hereinafter, “Silber”).

Independent claim 1 is amended to include the features of claims 8 or 21. It is submitted this distinguishes over the reference. Silber discloses a lattice tower. The flat panels, e.g., 115, are for a non-structural shell (Abstract).

Independent claim 15 is amended and new independent claim 27 added to include the features of claim 9.

Thus, this rejection should be withdrawn.

IV. The Office action rejects claims 3, 17, and 18, citing 35 U.S.C. §103(a) and Jensen.

Claims 3, 17 and 18 depend from claim 1. Independent claim 1 is amended to include the features of claims 8 or 21. It is submitted selecting flat or flat with a kink surfaces avoids the circular curved surfaces of Jensen.

Independent claim 15 is amended and new independent claim 27 added to include the features of claim 9. Thus, this rejection should be withdrawn.

V. The Office action rejects claims 8, 9, and 13, citing 35 U.S.C. §103(a), Jensen, and Rensch.

Regarding claim 8, since its features are also in claim 1, Applicant argues for both claims together.

It is non-obvious to modify the tower of Jensen to be flat or kinked. In view of Jensen's teaching of segments (Abstract) if the tower of Jensen were modified to have flat walls, then the resulting tower would become either triangular or involve a patchwork of welded small plates with lots of flanges welded to it.

Also, Rensch does not make up for the deficiencies of claim 8 (now also in claim 1) for the reasons described above.

Regarding claim 9, the Office action acknowledges Jensen does not teach the features of claim 9. These have also been incorporated into amended claim 15 and new independent claim 27. On page 9, the Office action states Rensch teaches it is known to provide a flange with a first/second flange 20 and an additional first/second flange 21 as shown in Figure 8 of Rensch (reproduced below).

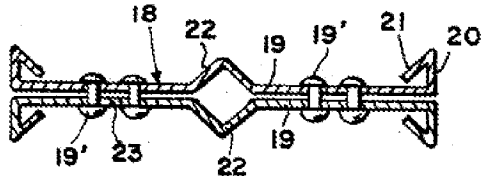


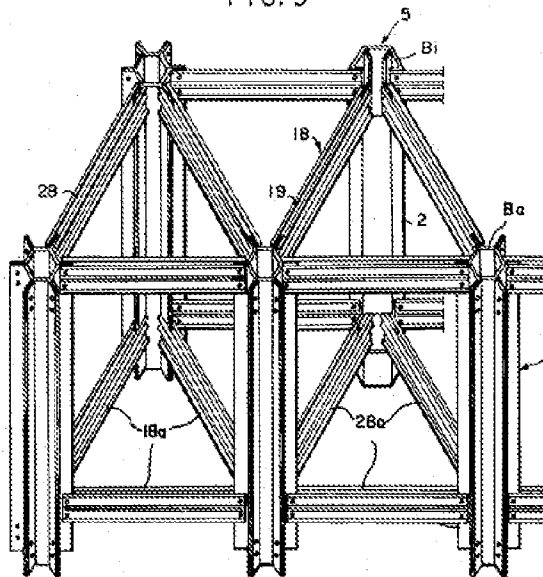
FIG. 8

Applicant respectfully submits selecting flat or flat with a kink surfaces in claim 1 avoids the circular curved surfaces of Jensen. Applicant asserts there are significant advantages to flat quadrilateral sections (see page 5, line 12-24).

Moreover, Applicant respectfully submits Fig. 8 of Rensch does not illustrate a part of a prefabricated metal wall part.

"FIG. 8 is a cross-sectional view through a traverse beam adapted to span a pair of columns in accordance with this invention." (Rensch, column 4, lines 31-33). Thus, Fig. 8 of Rensch illustrates a horizontal traverse member used to connect Rensch's profiled columns, as illustrated in Fig. 4. Rensch explains the horizontal traverse members illustrated in Fig. 8 are equivalent to an I-beam (see column 6, lines 46 – 71 of Rensch). Fig. 9 of Rensch (reproduced below) illustrates a structure built from horizontal traverse members and columns.

FIG. 9



Rensch does not teach or suggest it would be beneficial to provide an additional first flange and an additional second flange in the profiled columns.

Therefore, this rejection should be withdrawn.

New claim 26 recites the trapezoidal embodiment. It is submitted this further distinguishes over these references.

New claims 30 and 31 recite an L shape formed by flanges. It is submitted this further distinguishes over these references.

VI. The Office action rejects claim 10, citing 35 U.S.C. §103(a) and Jensen and alleged admissions on page 6, lines 5 – 7 of the specification.

The Office action improperly asserts the statement by the applicant at page 6, lines 5-7, is an admission. Applicant respectfully submits the paragraph does not constitute an admission of obviousness, but a description of what is believed to be inventive.

The Office action is taking page 6, lines 5 – 7 out of context. The paragraph begins by stating, “The invention is also embodied ...” It is discussing the invention. The statement relied upon by the Examiner is meant to build upon the prior sentences in the paragraph. In other words, after the inventor tells one skilled in the art what is in the prior sentences, then one skilled in the art can appreciate the statement of the cited sentence - not in a vacuum.

Although unnecessary, Applicant amends the paragraph on page 6, lines 1 – 7, corresponding to paragraph [0018] of the published application (US 2007/0294955 A1), to emphasize each sentence of the paragraph is read in the context of the paragraph as a whole.

Claims 28 and 29 also recite features of claim 10 and likewise distinguish.

It is submitted claims 30 and 31 defining L-shapes also distinguish over these references.

VII. The Office action rejects claims 12 and 23, citing 35 U.S.C. §103(a), Jensen and US 4,248,025 to Kleine et al. (hereinafter, “Kleine”).

Independent claim 1 is amended to include the features of claims 8 or 21. It is submitted this distinguishes over the references. Claims 12 and 23 depend from claim 1.

Independent claim 15 is amended and new independent claim 27 added to

include the features of claim 9.

Thus, this rejection should be withdrawn.

VIII. The Office action rejects claim 21, citing 35 U.S.C. §103(a), Jensen and US D21074 to Milliken (hereinafter, "Milliken").

Applicant respectfully submits Jensen and Milliken are not combinable. Jensen relates to a steel tower for a windmill comprising a number of cylindrical or tapered tower sections (see paragraph [0017] of Jensen). Jensen requires cylindrical tower sections. Jensen only describes how to make cylindrical tower sections, explaining a rolled steel plate constituting a 360° shell is welded together to form a cylindrical or tapered tower section, whereupon said section is cut into the number of elongated shell segments required (see paragraph [0025]). Jensen also describes dividing a tower section into three segments of essentially equal arc length, i.e. 120° (see paragraph [031]).

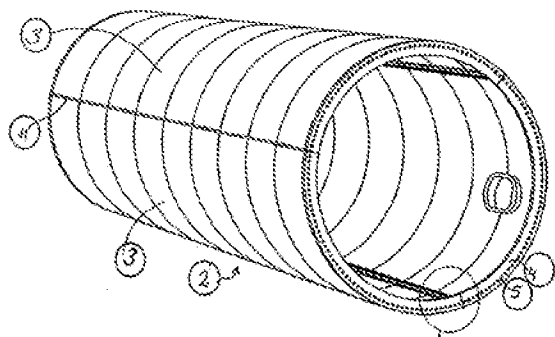


Figure 2 of Jensen

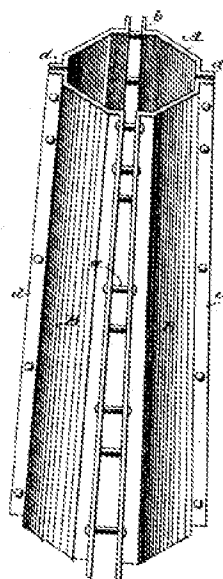


Figure 1 of Milliken

Moreover, the object of Milliken's design is to make formation/flange figures b and d appear as a portion of cone figures A and B. There is no reason to modify Jensen based on the teachings of Milliken, because Jensen's vertical joints 11 are not visible after being filled with filler element 12 (see paragraph [0047] of Jensen).

The unsupported assertion, on pages 11 and 12, that skilled artisans knew providing a kink in a thin metal panel is a way of strengthening the panel should be withdrawn or evidence should be produced to support the assertion. See *In re Chevenard*, 139 F.2d 711, 713, 60 USPQ 239, 241 (CCPA 1943).

IX. The Office action rejects claims 24 and 25, citing 35 U.S.C. §103(a), Jensen, and US 2005/0166521 by Silber (hereinafter, "Silber").

The features of claim 8 or 21 are incorporated into claim 1. Claims 24 and 25 depend from claim 1. It is submitted this distinguishes over the references.

Independent claim 15 is amended and new independent claim 27 added to include the features of claim 9.

Thus, this rejection should be withdrawn.

#### Petition for Extension of Time

Applicants respectfully request that a three-month extension of time be granted in this case. The respective fee is paid by credit card.

#### Fee Authorization

The Director is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account 14-1437. Please credit any excess fees to such account.



Conclusion

The present application is in condition for allowance, and applicants respectfully request favorable action. In order to facilitate the resolution of any questions, the Examiner is welcome to contact the undersigned by phone.

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